



UNITED STATES PATENT AND TRADEMARK OFFICE

**UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office**  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/541,887	01/09/2006	David Bedford	102792-459 (11166P1)	7955
27389	7590	11/28/2007	EXAMINER	
NORRIS, MC LAUGHLIN & MARCUS			CERNOCH, STEVEN MICHAEL	
875 THIRD AVE			ART UNIT	PAPER NUMBER
18TH FLOOR			4114	
NEW YORK, NY 10022			MAIL DATE	
			DELIVERY MODE	
			11/28/2007	
			PAPER	

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/541,887	BEDFORD ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Steven M. Cernoch	4114	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 1/09/2006.  
 2a) This action is **FINAL**.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-15 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-15 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 09 January 2006 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____ .
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date <u>7/8/2005</u> .	5) <input type="checkbox"/> Notice of Informal Patent Application
	6) <input type="checkbox"/> Other: _____

## **DETAILED ACTION**

1. In response to the Preliminary Amendment filed on July 7, 2005, claims 1-15 are pending.

### ***Specification***

2. The disclosure is objected to because of the following informalities: Item #6 from Figure 2 is not listed or named in the Specification. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

  

4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various

claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 1-5, 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over O'Leary et al. (International Pub. No. WO 00/24434) in view of Jellinek et al. (German Pat. No. DE 3239511 A1).

Regarding claim 1, O'Leary et al. discloses a device for perfuming, deodorizing or sanitizing air or enclosed spaces (Abstract, lines 1-4 and 20-24) comprising an anhydrous gel element formed by cross-linking a functionalized liquid polymer with a cross linking agent in the presence of a non-aqueous perfume, deodorizing or sanitizing base (column 5, lines 32-35 and column 6, lines 1-5) but does not teach the separate timing means, however Jellinek et al. does disclose a separate timing means for proving an end-of-life indication (Abstract, lines 3-11). Therefore it would be obvious to one having skill in the art to have the motivation to combine the device of O'Leary et al. with the end-of-life indicator of Jellinek et al. to show the consumer when it's time to refill the device.

With regard to claim 2, O'Leary et al. teaches wherein the functionalized liquid polymer is selected from maleinised polybutadiene, maleinised polyisoprene or a copolymer of ethylene and maleic anhydride and the cross linking agent contains at least two complementary functional groups (column 5, lines 34-35 and column 6, lines 1-3).

In regards to claim 3, O'Leary et al. discloses wherein the non-aqueous perfume, deodorizing or sanitizing base constitutes from 60 to 95wt% of the gel element (column 16, lines 2-6).

Regarding claim 4, Jellinek et al. teaches wherein the timing means comprises an additional element, which visibly shrinks over the intended lifetime of the device (Abstract, lines 3-11).

With regard to claim 5, Jellinek et al. discloses wherein the additional element comprises a gel, which shrinks at a greater rate than said anhydrous gel element (Abstract, lines 3-11).

In regards to claim 11, O'Leary et al. teaches wherein the non-aqueous perfume, deodorizing or sanitizing base constitutes from 60 to 95wt% of the gel element (column 16, lines 2-6).

Regarding claim 12, Jellinek et al. discloses wherein the separate timing means for proving an end-of-life indication is a visible signal means (Abstract, lines 3-5).

6. Claims 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over O'Leary et al. (International Pub. No. WO 00/24434) in view of Jellinek et al. (German Pat. No. DE 3239511 A1) in further view of Ishikawa et al. (US Pub. No. 2002/0173762 A1).

Regarding claim 6, O'Leary et al. teaches the device while Jellinek et al. teaches the additional timing means, however Ishikawa et al. teaches wherein the additional element comprises particles which shrink, compact or dissolve (Paragraph 0027, line 1). Therefore it would be obvious to one having skill in the art to have the motivation to combine the device of

O'Leary et al. and the timing means of Jellinek et al. with particles of Ishikawa et al. because particles would be more compact, hence take up less space.

With regard to claim 7, Ishikawa et al. discloses wherein the particles comprise a maleic anhydride-isobutylene copolymer (Paragraph 0027, lines 7-8).

7. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over O'Leary et al. (International Pub. No. WO 00/24434) in view of Jellinek et al. (German Pat. No. DE 3239511 A1) in further view of Dundale et al. (US Pub. No. 2002/0110498 A1).

In regards to claim 8, O'Leary et al. teaches the device and Jellinek et al. teaches the timing means, however Dundale et al. discloses wherein the timing means provides an end-of-life indication after from 28 to 40 days use of the device (Paragraph 0045). Therefore it would be obvious to one having skill in the art to have the motivation to combine the device of O'Leary et al. with the timing means of Jellinek et al. and the indication range of Dundale et al. to provide a time frame for the product.

8. Claims 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over O'Leary et al. (International Pub. No. WO 00/24434) in view of Jellinek et al. (German Pat. No. DE 3239511 A1) in further view of Rattan et al. (US Pat. No. 4,161,284).

Regarding claim 9, O'Leary et al. teaches the device and Jellinek et al. teaches a timing means, however Rattan et al. teaches actuating means (Abstract, lines 10-12). Therefore it would be obvious to one having skill in the art to have the motivation to combine the device of O'Leary

et al. with the timing means of Jellinek et al. and the actuating means of Rattan et al. in order to keep the liquids safe until needed.

With regard to claim 10, Rattan et al. discloses wherein the actuating means comprises an impermeable foil, which covers the substance and the timing means (column 2, lines 49-52).

9. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over O'Leary et al. (International Pub. No. WO 00/24434) in view of Jellinek et al. (German Pat. No. DE 3239511 A1) in further view of Carter et al. (US Pat. No. 4,702,418).

In regards to claim 13, O'Leary et al. teaches the device and Jellinek et al. teaches the timing means, however Carter et al. teaches wherein the separate timing means for proving an end-of-life indication is an audio signal means (Column 6, lines 53-57). Therefore it would be obvious to one having skill in the art to have the motivation to combine the device of O'Leary et al. and the timing means of Jellinek et al. with the audio signal means of Carter et al. for easier notification purposes.

10. Claims 14 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over O'Leary et al. (International Pub. No. WO 00/24434) in view of Jellinek et al. (German Pat. No. DE 3239511 A1) in further view of Marquez-Lucero et al. (US Pat. No. 5,574,377).

Regarding claim 14, O'Leary et al. discloses the anhydrous gel element and Jellinek et al. discloses the separate timing means, however Marquez-Lucero et al. discloses the conducting particles (column 4, line 25). Therefore it be obvious to one having skill in the art to have the

motivation to combine the gel element of O'Leary et al. with the conducting particles of Marquez-Lucero et al. to create an easier mixture with other conductors.

With regard to claim 15, Marquez-Lucero et al. teaches wherein the conducting particles are selected from carbon black, graphite and metals (column 4, lines 25-32).

### ***Conclusion***

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Laudamiel-Pellet et al. (US Pub No 2002/0066798) teaches a multiple scent-containing article. Hurry et al. (US Pat No 6,435,423) discloses a gel type vapor release device. Fry et al. (US Pat No 6,254,836) teaches a scent diffusing air freshener. Warren et al. (US Pat No 6,213,409) discloses a time-release fragrance sachet. Lin et al. (US Pat No 6,173,219) teaches vehicle air freshener. Lembeck et al. (US Pat No 5,121,881) discloses an air freshening liquid container. Locko et al. (US Pat No 4,913,349) teaches a device for dispensing volatile fragrances. Viti et al. (US Pat No 4,909,438) discloses an air freshening dispenser. Locko et al. (US Pat No 4,889,285) teaches a device for dispensing volatile fragrances. Lindauer et al. (US Pat No 5,180,107) discloses a dispensing unit of volatilizable substance capable of visible determination of its extent of use. Bernarducci et al. (US Pat No 5,163,616) teaches an air freshener device with visual signal means. Dello et al. (US Pat No 3,239,145) discloses a dispensing container for an air treating gel. Hamilton et al. (US Pat No 4,293,095) teaches an air-treating device. Van Vlahakis et al. (US Pat No 5,324,490) discloses a deodorant container and perfumed stable gel assembly and method of manufacture. Cummings et al. (US Pat No

3,910,495) teaches a dispensing container for solid air treating gel. Jaffe et al. (US Pat No 3,104,816) discloses a dispenser having an end point indicating means. Wenner et al. (US Pat No 2,733,956) teaches a vaporizing dispenser for air treating gels. Minatono et al. (US Pat No 4,362,841) discloses a hydrous gel. Haworth et al. (US Pat No 4,502,630) discloses a vapor-dispensing device. Gibbs et al. (US Pat No 5,752,658) teaches an air freshener and chain pull device for a ceiling fan. Traas et al. (US Pat No 4,921,636) discloses a time duration indicator system. Munden et al. (US Pat No 4,128,508) teaches a color change perfume system. Martin et al. (US Pat No 6,194,769) discloses sensor devices.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven M. Cernoch whose telephone number is (571) 270-3540. The examiner can normally be reached on M-T, 730-5, F1 -Off, F2 730-5 (EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joe Cheng can be reached on (571) 272-4433. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

SMC  
11/19/2007

/Joe H Cheng/  
Supervisory Patent Examiner, Art Unit 4114